

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-18155-2021

Date of decision:-29.6.2021

Deepak alias Deep and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Kapil Khanna, Advocate
for the petitioner.

H.S. MADAAN, J.(ORAL)

Case taken up through video conferencing.

Petitioners – Deepak @ Deep, aged about 31 years and Dorthi Miceal alias Dorthi, aged about 39 years, both of them being accused in case FIR No.218 dated 28.12.2019, under Sections 420, 465, 468, 471, 506, 120-B IPC, registered with Police Station City, Gurdaspur, have filed the instant petition under Section 482 Cr.P.C. seeking quashing of the FIR as well as order dated 5.1.2021 passed by Chief Judicial Magistrate, Gurdaspur declaring them as as proclaimed persons, on the basis of compromises dated 19.10.2020.

Since the petitioners are absconders having been declared as proclaimed persons by the Court of competent jurisdiction, they should have approached the trial Court for setting aside of order declaring them as proclaimed offenders, rather than coming to this Court directly seeking the same relief there.

In *Mehnga Singh Versus State of Punjab, 2002(2) R.C.R.(Criminal) 501*, it has been observed that when an accused has been declared as proclaimed offender, a petition against the order under Section 482 Cr.P.C. is not maintainable and that the accused should first move the Court which declared him proclaimed offender and even an objection against validity of proclamation is required to be raised in the first instance before the Court which issued the proclamation and that power under Section 482 Cr.P.C. is not to be exercised in favour of a person, who is absconding or avoiding service.

Accordingly, the petitioners cannot bye-pass the Court, which had declared them as proclaimed persons and seeking quashing of the order in question by coming to this Court.

For the similar reasons, the request for quashing of FIR on the basis of compromise cannot be entertained till the order declaring the petitioners as proclaimed persons is not set aside.

Therefore, the petition stands dismissed.

However, petitioners are directed to surrender in the trial Court within a period of 15 days from today and move application for setting aside of order declaring them as proclaimed persons and in event of their doing so and moving application for regular bail, the same be disposed of by the trial Court expeditiously.

(H.S.MADAAN)
JUDGE

29.6.2021
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No